IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD
(Special Original Jurisdiction)
MONDAY, THE TWENTY FIRST DAY OF JUNE
TWO THOUSAND AND FOUR
PRESENT
THE HON'BLE MR JUSTICE S.ANANDA REDDY
WRIT PETITION NO : 10041 of 2004

Between:
Arifa Khan W/o late Md. Zaki Mohammad Khan R/o 8-1-21/87, Plot No. 87, Suryanagar Colony, Toli Chowki, Hyderabad

..... PETITIONER

AND

1 Transmission Corporation of A.P., Ltd., (A.P. Transco) rep by Chief Managing Director Vidyut Soudha, Khairatabad, Hyderabad
2 The Divisional Engineer Assessments-I Central Power Distribution Company of A.P., Limited, (AP Transco) Urdu Hall Lane, Himayathnagar, Hyderabad
3 The Assistant Divisional Engineer, Operation, D-IV City VII Central Power Distribution Company of A.P. Ltd., (AP Transco), Mehadipatnam, Hyderabad
4 The Assistant Accounts Officer, ERO. IX Central Power Distribution Company of A.P., Ltd., (AP Transco,) A.c. Guards, Hyderabad

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ or order of direction more particularly one in the nature of Writ of Mandamus declaring the Order in Ref. No. DEA/I/HYD/DAT. 24905 D. No. 1557 dated 15-05-2004 of the 2nd respondent as highly illegal arbitrary unjust and contrary to Section 49-C(5) of the Indian Electricity(AP Amendment Act.2000 and consequently set a side the same and further direct the respondents to refer the matter to the jurisdictional special tribunal constituted under the Indian Electricity (A.P. Amendment) Act 35/2000

Counsel for the Petitioner: MR.D.V.NAGARJUNA BABU

Counsel for the Respondents: MR.K.RAVINDRA KUMAR, LEARNED STANDING COUNSEL FOR TRANSCO

The Court at the admission stage made the following:

ORDER:

This writ petition is filed by the petitioner being aggrieved by the action of second respondent in not transferring the proceedings pending before him in Ref.No.DEA/HYD/DAT.24905.D.No.1557 to the Tribunal having jurisdiction, and in passing orders making an assessment with reference to the alleged pilferage of power.

2. According to the learned counsel for the petitioner, second respondent has no jurisdiction to assess the alleged pilfered value of power and it is only the Tribunal constituted under the provisions of the Indian Electricity (A.P. Amendment) Act, 2000 (for short 'the Act') which has to adjudicate upon and in fact he sought for transfer of the proceedings to the appropriate Tribunal in terms of Section 49-C(5) of the Act. But, second respondent without following the same, passed the order. According to the petitioner, the impugned order passed by second respondent is illegal and without jurisdiction. At the time

of hearing, the learned counsel for the petitioner also stated that the issue in question is also covered by a judgment of this Court in the case of *CHEEDI RAMA RAO v. TRANSMISSION CORPORATION OF A.P. Ltd., (A.P. TRANSCO) rep. BY ITS CHIEF MANAGING DIRECTOR AND OTHERS*[1]. Therefore, sought for passing of similar order.

3. Heard the learned counsel for the petitioner and the learned Standing Counsel.

4. The learned Standing Counsel has fairly conceded that the issue is covered by the judgment of this Court referred to above.

5. In view of the above judgment of this Court, the impugned order of second respondent dated 15-05-2004 is set aside and the matter is restored to his file, with a direction to transmit the same to the appropriate Tribunal having jurisdiction to adjudicate upon the issue in dispute.

6. Accordingly, the writ petition is disposed of at the admission stage itself. No costs.

21st June, 2004

ASSISTANT REGISTRAR

//True Copy//

SECTION OFFICER

To

1 The Chairman, Special Tribunal constituted under Electricity Act, Hyderabad.

2 The Chief Managing Director, Transmission Corporation of A.P., Ltd., (A.P. Transco), Vidyut Soudha, Khairatabad, Hyderabad

3 The Divisional Engineer Assessments-I Central Power Distribution Company of A.P., Limited, (AP Transco) Urdu Hall Lane, Himayathnagar, Hyderabad

4 The Assistant Divisional Engineer, Operation, D-IV City VII Central Power Distribution Company of A.P. Ltd., (AP Transco), Mehadipatnam, Hyderabad

5 The Assistant Accounts Officer, ERO. IX Central Power Distribution Company of A.P., Ltd., (AP Transco,) A.c. Guards, Hyderabad

6 Two CDs.

Note: Furnish CC in three days.

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[1] 2003 (4) ALT 267